

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of	)	
	)	
Delete, Delete, Delete	)	GN Docket No. 25-133
	)	
Targeting and Eliminating Unlawful Text Messages	)	CG Docket No. 21-402
	)	
Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991	)	CG Docket No. 02-278
	)	

COMMENTS OF HRB Tax Group, Inc.

HRB Tax Group, Inc. (“H&R Block”) hereby submits these comments in response to the request by the Federal Communications Commission (“FCC” or “Commission”) for “public input on identifying FCC rules for the purpose of alleviating unnecessary regulatory burdens.”¹ H&R Block applauds the Commission’s initiative to facilitate the “review of rules to ensure that unnecessary – or affirmatively detrimental – rules are not retained.”² Consistent with this objective, H&R Block submits that several regulations adopted by the Commission pursuant to the Telephone Consumer Protection Act (“TCPA”) should be eliminated or modified: (1) the new consent revocation rules codified at 47 C.F.R. § 64.1200(a)(10) and (11); (2) the expanded Do-Not-Call requirements for text messages codified at 47 C.F.R. § 64.1200(e); and (3) the requirement in 47 C.F.R. § 64.1200(b)(3) to include a toll-free number on certain prerecorded message calls where a message is left on an answering machine or voicemail service. As explained herein, the cost burden of these regulations on businesses like H&R Block, as well as

¹ *In re Delete, Delete, Delete*, GN Docket No. 25-133, Public Notice, DA 25-219 (March 12, 2025).

² *Id.* at 2.

the potential for consumer harm, outweigh the benefits. As such, the FCC should take swift action to “delete, delete, delete” these rules.

Background

H&R Block provides tax preparation services to more than 20 million American taxpayers annually through software and 9,000 retail offices across all 50 states and employs over 60,000 employees during peak tax season. In addition to tax preparation for individuals, H&R Block offers tailored services including bookkeeping, payroll, and business formation for small business owners through Block Advisors as well as multiple financial services solutions through the mobile banking app Spruce, Emerald Advance Loan, and more. To provide these services, H&R Block must communicate with its customers, including for time-sensitive matters such as appointment reminders, account alerts, including fraud alerts or for multi-factor authentication purposes, and tax return filing notifications. These important messages are relayed through a variety of methods – including outbound calls, text messages, and email. H&R Block gives customers several options for managing how they receive messages, including setting their preferences in their online account, contacting H&R Block by phone (either a toll-free customer service line or calling directly to any one of thousands of H&R Block offices nationwide), or speaking with an H&R Block tax professional or other representative in-person.

Like many other businesses, H&R Block employs multiple systems and vendors to assist with customer communications. Syncing these systems to each other is both costly and technically complex because they are often designed for different purposes. It is not uncommon for a company to have different calling and texting solutions to achieve different business goals (e.g., a platform that specializes in sending appointment reminder texts may be distinct from a

voice calling system that is used primarily to leave a voicemail message, or to enable a live agent to offer a promotional rate on services).

New TCPA Revocation of Consent Rules (47 C.F.R. § 64.1200(a)(10), (11))

In February of 2024, the FCC codified two new TCPA rules intended to “make it simpler for consumers to revoke consent, and require that callers and texters implement requests in a timely manner.”³ In its *Revocation of Consent Order*, the Commission explained that under these new rules, “any revocation of consent request applies ... to those robocalls and robotext for which consent is required under the TCPA. Once that consent is revoked, the caller may no longer make robocalls or send robotexts to a called party absent an exemption to the consent obligation.”⁴

This framework introduces unnecessary complexity and risks that could negatively impact both consumers and businesses. Indeed, during the rulemaking process, industry commenters raised serious concerns and opposition to this consent revocation approach which we reiterate via this letter.⁵ The Commission dismissed these concerns, however, concluding

³ *In the Matter of Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, CG Docket No. 02-278, Report and Order and Further Notice of Proposed Rulemaking, FCC 24-24 (Feb. 8, 2024) (“Revocation of Consent Order”).

⁴ *Id.*, ¶ 29.

⁵ See e.g., Letter from Michael H. Pryor, Counsel to ACA et al. to Marlene H. Dortch, Secretary, FCC, CG Docket No. 02-278 (filed Sept. 18, 2023) at 2 (arguing that “it is critical that businesses not be compelled to apply a customer’s revocation request to a broader category of messages than the customer intends”); Comments of the Professional Associations for Customer Engagement, CG Docket No. 02-278, p. 7 (July 31, 2023) (“PACE believes that a single revocation of consent should be honored, but it should be specific to the type of messaging declined. For example, a home improvement store may send a consumer marketing messages, as well as billing messages and updates about shipping of products purchased. While we believe that an opt out sent in response to a marketing message should stop all further messages of that type, we do not believe the customer would want to stop all communication, as they may still want messages about deliveries, billing, etc.”); Comments of ACA International and the Credit Union National Association, CG Docket No. 02-278, pp. 12-13 (“the Commission’s proposal would require financial institutions, health care providers, and utilities to stop all information robocalls or robotexts even if the consumer is making a revocation request in response to a solicitation from the same company. As one specific example of unintended consequences,

that the possible harms that might arise from a consumer inadvertently opting out of multiple categories of calls/messages via a single request were sufficiently offset by the availability of a few categories of “exempted” informational calls that would not be within scope of the new rules, and “the ability to send a confirmation text informing consumers of the scope of their revocation request.”⁶ Just this week, the Consumer and Governmental Affairs Bureau released a limited waiver “delaying the effective date of section 64.1200(a)(10) of the Commission’s rules to the extent the rule requires callers to treat a request to revoke consent made by a called party in response to one type of message as applicable to all future robocalls and robotexts from that caller on unrelated matters.”⁷

H&R Block appreciates this interim relief and the Bureau’s acknowledgement that compliance with the “revoke all” provision requires “substantial work” involving significant investments of time and resources. However, we submit that in this new proceeding, the FCC has the opportunity to reexamine altogether the “revoke all” approach in 47 C.F.R. § 64.1200(a)(10), as well as the “rebuttable presumption” that a consumer has revoked consent if they can produce evidence of their request, codified at 47 C.F.R. § 64.1200(a)(11), before they cause potentially widespread consumer and business harm. Such harms include:

- *Potential Impact on Client Experience:* The new rules will negatively impact the quality of service provided to consumers if businesses must presume that an opt-out for marketing text messages and calls also extends to informational text messages and calls.⁸ For example, H&R Block’s clients may not realize how broadly they have

access to online or mobile services are often predicated on the consumer’s agreement to receive authenticating calls or texts, such as two-factor authentication. The Commission’s proposed single-revocation-stops-everything rule could result in consumers losing access to these services.”).

⁶ Revocation of Consent Order, ¶ 31.

⁷ *In the Matter of Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, CG Docket No. 02-278, Order, DA 25-312 (CGB rel. Apr. 7, 2025).

⁸ Indeed, the U.S. Court of Appeals for the Eleventh Circuit recently rejected the FCC’s argument that it could adopt a rule based on the Commission’s presumption of a consumer’s

opted out of communications by virtue of a single opt-out request made in a particular context (e.g., opting out of a particular text marketing campaign), leading to severe negative impacts when H&R Block is unable to reach them regarding issues with or the status of their tax returns, account security, or to authenticate their identity so that they can access their financial account.⁹ This could result in delays in resolving tax-related issues, missed deadlines, and potential penalties, as well as possible negative implications for small businesses using H&R Block’s bookkeeping, payroll, and business formation services, causing significant stress, financial harm, and disruption to consumers and small businesses. Additionally, the inability to communicate effectively with clients about their tax returns, financial accounts, and small business related services could undermine trust and satisfaction, leading to a deterioration in client relationships.

- *Increased Complexity in Managing Opt-Out Requests and Litigation Risk:* With a large number of employees and clients, H&R Block will need to ensure that all opt-out requests are accurately processed across various communication channels. This includes training tens of thousands of employees (many of whom are short-term or seasonal employees that only work at H&R Block for a few months out of the year during peak tax season) to recognize and handle opt-out requests made through diverse methods, including variations such as misspellings, gifs, emojis, and offhand conversations.¹⁰ Even if H&R Block and other similarly situated businesses take reasonable steps to account for such complexities in implementing these new rules,

intent. *See Ins. Mktg. Coal. Ltd. v. FCC*, No. 24-10277, 2025 WL 289152 (11th Cir. Jan. 24, 2025) (observing that “whether a consumer can be ‘presumed’ to consent to robocalls in a particular situation says nothing about whether a consumer has in fact consented to robocalls in that situation. As long as the consumer clearly and unmistakably states, before receiving the robocall, that he is willing to receive the robocall, he has given ‘prior express consent’ under the TCPA.”). The court’s logic would also reasonably apply in the context of consent revocation.

⁹ See Letter from American Bankers Association et al., to Marlene Dortch, Secretary, FCC (CG Docket No. 02-278) (March 27, 2024) (raising similar concerns about the unintended consequence of consumers not receiving important messages like low-balance alerts, multi-factor authentication messages, or warnings about unusual credit card transactions from financial institutions).

¹⁰ See Letter from ACA International et al., to Marlene Dortch, Secretary, FCC, CG Docket No. 02-278 (Feb. 7, 2024) (commenting that with respect to text responses “businesses receive a dizzying array of responses that must be manually assessed, interpreted, processed and acted upon” and “[v]erbose and cryptic responses are only one problem. Responses run the gamut from various misspellings of STOP (e.g., “srop”, “stoo”, “STOap”, “stfu”, “syop”, “STWOP”, “atop”) to expletives or highly offensive and derogatory comments to emojis.”). Former FCC Chairman (then Commissioner) Ajit Pai also acknowledged the complexities that could arise in managing consent revocation in 2015. *See In the Matter of Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, CG Docket No. 02-278, Declaratory Ruling and Order, 30 FCC Rcd 7961, Dissenting Statement of Commissioner Ajit Pai (2015) (“Would a harried cashier at McDonald’s have to be trained in the nuances of customer consent for TCPA purposes? ... Could a customer simply walk up to a McDonald’s counter, provide his contact information and a summary ‘I’m not lovin’ it,’ and put the onus on the company? The prospects make one grimace.”).

some TCPA plaintiffs’ attorneys will likely seek to exploit the new “rebuttable presumption” that consent has been revoked by attempting to pursue litigation or arbitration that can cost a business significant legal fees and costs to defend.¹¹

- *Technological Upgrades and Integration:* Businesses like H&R Block need to invest heavily in upgrading systems to accommodate multiple opt-out methods. This involves integrating new technologies into both modern and legacy systems, which can be technically complex and costly.¹² Ensuring that all systems accurately reflect an individual’s opt-out preferences on a real time basis, as well as reflect their current preferences in their online and mobile app account settings, will be an ongoing and resource-intensive challenge. Moreover, in cases where a legacy system is unable to integrate with newer technologies, businesses like H&R Block will be forced to remove legacy systems, which is not only costly but also disrupts established workflows and requires significant resources to replace and train personnel on new systems. These resource-intensive changes may ultimately require increases to the pricing of services offered to consumers and small businesses, which should be accounted for as a further unintended consequence of these regulations.

For these reasons, H&R Block submits that the FCC should eliminate the “revoke all” provision of 47 C.F.R. § 64.1200(a)(10) and the “rebuttable presumption” created in 47 C.F.R. § 64.1200(a)(11) and instead revert back to the consent revocation framework established in 2015, which struck the right balance between consumer choice and the need for businesses to engage in effective communication with their customers.

Do-Not-Call (“DNC”) Requirements for Text Messages (47 C.F.R. § 64.1200(e))

Another recent FCC rule change that should be reconsidered is the 2023 amendment to section 64.1200(e) of the Commission’s rules to apply the DNC rules to text messages.¹³

¹¹ See *id.* (commenting that “the TCPA has become the poster child for lawsuit abuse”).

¹² See Letter from American Bankers Association et al., to Marlene Dortch, Secretary, FCC (CG Docket No. 02-278) (March 27, 2024) (“To comply with the Order, an institution is required to process a revocation sent in response to one business unit’s call or text so that all business units cease placing calls or texts to the consumer. This conversion involves substantial work, particularly for large institutions with many business units with separate calling systems. Moreover, callers often outsource to third parties responsibility to communicate with customers for specific issues, which requires coordination to ensure that all communications stop. Smaller providers face numerous challenges too, as modifications to their communications systems often require extensive manual work. The Commission provided no cost-benefit analysis of the work institutions would perform to comply with the “revoke all” provision of the Order.”).

¹³ *In the Matter of Targeting and Eliminating Unlawful Text Messages, Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991, Advanced Methods*

Although the Commission suggested that this change was limited to “codify[ing] the *National DNC Registry*’s existing protections to text messages,” in reality, the amended rule is more broadly applicable, since 64.1200(e) expressly relates back to both the National DNC Registry and an individual caller’s internal DNC obligations. The Commission devoted only three paragraphs in the entire December 2023 Order to this amendment and provided no cost-benefit analysis to support its decision.

Since the amended rule took effect in March 2024, H&R Block has incurred significant compliance costs. For example, like many businesses, H&R Block has a large number of SMS and calling systems that it uses to communicate with customers for various purposes. Due to technical limitations, harmonizing preferences in real time between texting and calling platforms is not always possible. For example, H&R Block has had to discontinue a number of outbound communications due to the inability to economically connect relevant systems to operationalize a common opt-out, including customer satisfaction surveys sent via text message after tax filing or the H&R Block’s outreach to small businesses. The loss of these customer touch points in the aggregate risks obtaining timely customer feedback that leads to improved products and services, which is a critical component to a competitive marketplace. H&R Block also has had to implement costly, inefficient manual processes for transferring information between systems. Moreover, even with these changes, there are real concerns as to loss of trust with customers that could have irreparable damage over the long term if individuals are expecting certain communications that they will no longer receive in the aim of the H&R Block achieving

to Target and Eliminate Unlawful Robocalls, CG Docket Nos. 21-402- 02-278, 17-59, Second Report and Order, Second Further Notice of Proposed Rulemaking in CG Docket Nos. -2-278 and 21-402, and Waiver Order in CG Docket No. 17-59, FCC 23-107, ¶¶ 26-28 (rel. Dec. 18, 2023).

technical compliance with the new rules.¹⁴ H&R Block, like many other businesses, engages in call and text campaigns for different purposes. A consumer or business owner would not reasonably understand or expect that by submitting a company-specific do-not-call request, they would also be opted-out of texts from the business, particularly if they consented to calls and texts separately. Accordingly, the FCC should eliminate the 2023 amendment to 47 C.F.R. § 64.1200(e).

Toll-Free Numbers on Certain Prerecorded Messages Left on Answering Machines or Voicemail Services (47 C.F.R. § 64.1200(b)(3))

More than a decade ago, the FCC implemented a requirement in its TCPA rules that prerecorded telemarketing messages left on answering machines or voicemail services must include “a toll-free number that enables the called person to call back at a later time and connect directly to the automated, interactive voice- and/or key press-activated opt-out mechanism and automatically record the called person's number to the caller’s do-not-call list.”¹⁵ In 2020, the Commission also applied this requirement to certain “exempt” categories of non-telemarketing calls made to residential lines, such as informational “commercial purpose” calls.¹⁶ H&R Block has found this requirement to be unworkable in practice. Due to the variability of answering machines and voicemail services, the portion of the prerecorded message that states the toll-free number (typically at the beginning or end of the message) often gets cut off when the message is

¹⁴ This chilling effect is not unique to H&R Block. The Retail Industry Leaders Association (“RILA”) noted in comments to the Commission in 2023 “[t]ransmission of information that consumers want and need is already being chilled and punished by litigation and the threat of statutory damages.” See Comments of the Retail Industry Leaders Association, CG Docket Nos. 21-402, 02-278, p. 14 (May 9, 2023) (citing the example that “Abercrombie has eliminated the distribution of text messages to particular customers” because “the only way to avoid TCPA liability altogether for calls or texts . . . is to cease communicating.”).

¹⁵ *In the Matter of Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, CG Docket No. 02-278, Report and Order, ¶¶ 44-49 (2012).

¹⁶ *In the Matter of Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, CG Docket No. 02-278, Report and Order, ¶¶ 25-29 (2020).

being left. H&R Block has no control over when these “cutoffs” occur, thereby making it impractical to utilize prerecorded messages for outbound calls. Because this technical limitation inhibits businesses from making otherwise lawful calls to individuals who have consented to receive them, the FCC should eliminate the toll-free number requirement from 47 C.F.R. § 64.1200(b)(3).

Conclusion

H&R Block appreciates the opportunity to comment in this proceeding, and urges the Commission to eliminate or modify¹⁷ 47 C.F.R. § 64.1200(a)(10) and (11); 47 C.F.R. § 64.1200(e); and 47 C.F.R. § 64.1200(b)(3) for the reasons set forth herein.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'B. Daise', with a horizontal line extending to the right.

Bruce Daise

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¹⁷ H&R Block appreciates this opportunity to work with the Commission on this important issue and is willing to provide proposed language for modifications at a future date.